IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

State of Rajasthan. Versus Har Lal.

S.B. Criminal Misc. Petition No. 344/1998
against the order dated 22-1-1998 passed
by the Special Mobile Judicial Magistrate,
Headquarters Bhilwara.

...

Date of Order: July 07, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. Vijay Purohit, for the non-petitioner.

BY THE COURT:

The order dated 22-1-1998 passed by the Special Mobile Judicial Magistrate, Headquarters Bhilwara (for short, "the trial Court" hereinafter) has been challenged by the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), whereby the trial Court, on an application under Section 457 of the Code filed by non-petitioner Har Lal, released the Jeep No.

RJ-09C-1935 in favour of its registered owner, i.e. the non-petitioner.

On careful perusal of the impugned order, it appears that the jeep was registered as a private vehicle, one-time tax was paid and the family members of the owner of the jeep were travelling therein and at that time the jeep was checked by the officials of Transport Department, who demanded the tax for plying the vehicle for hire and reward, whereas from the impugned order, it appears that the trial Court came to the conclusion that it was the jeep, for which one-time tax was paid and therefore no tax was due and the jeep was not being driven for hire and reward, rather the family members of the registered owner were travelling in the jeep.

Since January 1998, the jeep is in the custody of the registered owner. At such a belated stage, it will not be appropriate to examine the question as to whether the trial Court was justified in releasing the jeep in favour of its registered owner, i.e. the non-petitioner, when a point o tax was raised, though the trial Court prima facie came to the conclusion that the registered owner had paid one-time tax.

Even otherwise, a sum of Rs. 9450/- has been paid by non-petitioner Har Lal by receipt No.125 dted 17-3-1998, though under protest. This shows that even if the tax demanded by the Taxation Department is ultimately found to be correct

then also the amount has already been paid.

In this view of the matter, no case for interference in the impugned order is made out. The criminal miscellaneous petition is, therefore, dismissed.

(H.R. PANWAR), J.

mcs